

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking Regarding
Revisions to the California Universal
Telephone Service (LifeLine) Program

R.11-03-013
(Filed March 24, 2011)

**COMMENTS OF AT&T ON ASSIGNED COMMISSIONER AND ADMINISTRATIVE
LAW JUDGE'S RULING REQUESTING COMMENTS ON WORKSHOPS AND
FEDERAL COMMUNICATIONS COMMISSION'S THIRD REPORT AND
ORDER, ISSUING DATA REQUESTS**

David Discher
Executive Director – Senior Legal Counsel
AT&T Services, Inc.
430 Bush Street, Third Floor
San Francisco, CA 94108
Tel.: 415-268-5351
Fax: 415-543-0418
E-mail: david.discher@att.com

Attorney for AT&T

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AT&T¹ hereby provides comments on the questions and issues delineated in the *Assigned Commissioner and Administrative Law Judge's Ruling Requesting Comments on Workshops and Federal Communications Commission's Third Report and Order, Issuing Data Requests* ("Ruling").

I. INTRODUCTORY COMMENT

The FCC's changes to its Lifeline program necessitate swift Commission action to align its program with the federal program. Aligning the eligibility criteria on the Commission's program with the federal program ensures eligible consumers will continue to receive the benefits of both programs; failure to align the criteria will result in consumers losing the benefits of either the Commission's program or the federal program.² The California LifeLine Administrator and California LifeLine providers also need to avoid all of the problems caused by two different sets of eligibility criteria. The current success of the Commission's program is supported by providers which choose to participate in the program. The programs need to be aligned so participation does not become so complicated that providers flee the California program.

The port freeze rules also need to be aligned. The FCC has new port freeze rules that if not mirrored by the Commission will cause consumers a host of problems when they switch among LifeLine providers is a period of time.

AT&T urges the Commission to put aside other Lifeline issues and focus on aligning the eligibility criteria and port freeze requirements.

¹ Pacific Bell Telephone Company d/b/a AT&T California (U 1001 C); AT&T Corp. (U 5002 C); Teleport Communications America, LLC (U 5454 C); and AT&T Mobility LLC (New Cingular Wireless PCS, LLC (U 3060 C); AT&T Mobility Wireless Operations Holdings, Inc. (U 3021 C); and, Santa Barbara Cellular Systems, Ltd. (U 3015 C)), collectively hereinafter "AT&T."

² The consumers who would lose the federal benefit if they do not meet federal criteria could still receive the same amount of support if the Commission made up for the lost benefit.

II. AT&T COMMENTS ON THE LIFELINE WORKSHOP

The ruling identified six specific questions and sought responses.

A. Whether the Workshop changed a party's ranking of the proceeding's priorities, and if so, how?

Response: The *workshop* has not changed our ranking of the issues; but, the FCC's *Lifeline Modernization Order*³ has changed the ranking. The FCC's new eligibility requirements go into effect December 2, 2016. The issue urgently needing the Commission's attention is the need to mirror the streamlined federal eligibility criteria going forward, so that consumers will continue to qualify for combined federal and state discounts, and the state's LifeLine Administrator and carriers can continue to manage a single base of Lifeline customers. The Commission should bifurcate the current proceeding and address the eligibility and port freeze issues immediately. The other issues can be considered later.

B. Specific recommendations for the collection of provider-held data regarding consumer complaints, concerns and the appropriate methodology for gathering and sharing information, such as frequency, format/fields, etc.

Response: AT&T has no response at this time.

C. Specific recommendations/comments regarding CD's proposed changes to the renewal process.

Response: The Commission needs to modify its Lifeline eligibility rules to mirror the federal eligibility criteria effective on the same date as the federal rule changes. This date is currently fixed at December 2, 2016, but AT&T notes that USTelecom has filed a petition for reconsideration of the *Lifeline Modernization Order* and requested that this date be pushed back. This alignment would allow the California LifeLine Administrator ("CLA") to easily recertify

³ *In the Matters of Lifeline and Link Up Reform and Modernization; Telecommunications Carriers Eligible for Universal Service Support; and Connect America Fund*, WC Docket Nos. 11-42, 09-197, & 10-90, *Third Report and Order, Further Report and Order, and Order on Reconsideration*, 31 FCC Rcd. 3962, 64 Communications Reg. (P&F) 763, FCC 16-38, DA 16-706, DA 16-714 (rel. Apr. 27, 2016).

Lifeline customers and ensure they receive the benefits of both programs. Additionally, the new federal rules specify that a consumer has 60 days – a longer period than the 30-day period currently required by the federal program – to respond to the re-certification request. The provider must de-enroll consumers who did not respond within 5 business days after the 60-day response period. If the Commission’s requirements differ from the FCC’s, the CLA would be required to implement separate processes for de-enrolling consumers from the California and federal Lifeline programs that would be burdensome for the CLA and confusing for consumers. For example, if the Commission has a 30-day re-certification response period and does not modify its rules to mirror the FCC’s new 60-day period, a consumer who did not respond within 30 days would then need to be de-enrolled from the California program; but could not be de-enrolled from the federal program until after the federal 60-day response period.

AT&T recommends that the Commission make these same changes to its program.

D. Specific recommendations / comments regarding the assignment of a unique number to each California LifeLine participant.

Response: AT&T has no response at this time.

E. Drafts of “Brief Disclosure Forms” to be used by California LifeLine providers?

Response: AT&T has no response at this time.

F. Other issues that were raised in the Workshop and /or the materials provided in the Workshop.

Response: AT&T has no response at this time.

III. AT&T’S COMMENTS ON THE FCC’S THIRD REPORT AND ORDER

- 1. How should the Commission define the characteristics of a low-income household in California? Should they be different or the same compared to the definitions used by the FCC and the methods the FCC adopted to establish income-based or program-based eligibility for federal Lifeline? Should they be different or the same**

compared to the other low-income assistance programs that the Commission administers? Describe the justification.

Response: Today, California consumers can receive the federal Lifeline discount even if the consumer qualifies under California-specific eligibility criteria. Once the revised federal Lifeline eligibility criteria go into effect, consumers could receive different Lifeline discounts depending on whether the consumer demonstrated eligibility based on a federal or California-specific criterion.

Today, all consumers in California receive a combined federal/state discount of up to \$22.45: \$9.25 federal + up to \$13.20 California. Unless California changes its eligibility rules to mirror the revised federal Lifeline eligibility criteria, a California consumer would get a Lifeline benefit of:

- Up to \$22.45 - \$9.25 federal + up to \$ 13.20 California – if the consumer qualifies based on Medicaid participation, because Medicaid participation qualifies consumers for both the state and federal programs;
- \$9.25 federal benefit only – if a consumer qualifies based on Veterans and Survivors Pension participation, which is a new eligibility criterion for the federal program but not the California program;
- Up to \$13.20 California benefit only – if a consumer qualifies by demonstrating household income $> 135\%$ FPG but $\leq 150\%$ FPG, because consumers may qualify for California LifeLine benefits by demonstrating household income $\leq 150\%$ FPG, but may qualify for federal discounts only if their household income is $\leq 135\%$ FPG.

If the Commission fails to align its eligibility criteria simultaneous with the changes to the federal programs, it needs to lift its limitation that Lifeline rate changes can only occur January 1 of each year. If the two programs are not aligned simultaneously, providers must be free to implement two Lifeline rate that differentiate California-only LifeLine rates and federal LifeLine rates.

These scenarios illustrate the significant consumer confusion that may result if the Commission does not modify program eligibility criteria to mirror the federal criteria. Consumers are likely to be confused about which discount they are eligible for when they first sign up for Lifeline benefits. Consumers who are already participating in the program are also likely to be confused if, following their annual recertifications for Lifeline participation, their Lifeline discount changes as a result of the eligibility criterion they used to demonstrate continued eligibility for Lifeline.

More importantly, these scenarios highlight questions of equity and fairness if the Commission does not modify its rules to mirror the federal Lifeline eligibility criteria, given that by definition all consumers eligible for Lifeline have similar financial limitations.

The FCC reasoned that, in contrast to the pre-wireless Lifeline program, there is less need today for many qualifying programs and ways to enroll in Lifeline because of the increased marketing and outreach done by many Lifeline providers, and the fact that few Lifeline subscribers enroll through many of the qualifying programs. The FCC also recognized the difficulty placed on providers, state commissions, and consumers to verify Lifeline eligibility and that the more programs and methods consumers have to enroll, the harder it becomes to provide effective oversight. The FCC thus limited Lifeline eligibility to participation in the selected federal assistance programs to foster a long-term technological solution to Lifeline eligibility.⁴

⁴ *Lifeline Modernization Order*, ¶ 168.

Consequently, three principal criteria guided the FCC's changes to the federal eligibility criteria:

A. The federal assistance programs consumers most use to enroll in Lifeline:

- Nearly 80% - the “overwhelming majority of current Lifeline consumers” - enroll based on participation in SNAP, Medicaid, and SSI.⁵
- SNAP, Medicaid, and SSI capture 80% of the eligible low-income population.⁶
- LIHEAP, NSLP, and TANF were removed from the federal eligibility criteria in part because only 2.4% of Lifeline consumers based upon combined participation in these programs.⁷

B. The ability to develop long-term technological efficiencies in eligibility administration by easily accessing systems and databases from other assistance programs:

- The FCC determined that it was “vitally important” that any qualifying federal assistance program enable Lifeline to access systems and databases to develop a National Eligibility Verifier, so that it does not have to rely solely on self-certification or documentation.
- Moving to a technological solution for Lifeline eligibility verification will reduce the burden for consumers to provide additional documentation and will reduce the potential risk to consumers’ personal identifying information.
- SNAP, Medicaid, SSI, FPHA, and Veterans and Survivors Pension have existing, accessible databases that the National Verifier will be able to use for eligibility verification purposes.⁸ Conversely, the FCC noted that NSLP, LIHEAP, and TANF do not lend themselves to

⁵ *Id.* at ¶¶ 177-178. Provides additional information on each remaining program.

⁶ *Id.* at ¶¶ 177-178.

⁷ *Id.* at ¶¶ 188, 190. While only 3% of Lifeline subscribers qualify by demonstrating household income, the FCC retained the income-based eligibility criterion to ensure that consumers would not be denied access to the Lifeline program simply for not seeking other forms of assistance; and to ensure that consumers in U.S. territories would continue to have access to Lifeline. U.S. territories do not have full access to the federal programs that will continue to be the basis for federal Lifeline program-based participation. *Id.* at ¶¶ 197-204.

⁸ *Id.* at ¶¶ 179-182.

developing long-term, technology-based solutions in Lifeline eligibility administration.⁹

- C. *Relying on highly accountable programs that demonstrate limited eligibility fraud to reduce the potential for waste, fraud, and abuse due to eligibility errors.*¹⁰ The FCC identified systems and practices used by the SNAP, Medicaid, SSI, and FPHA program, and statistical data regarding these programs, that makes reliance on these programs appropriate to reduce the potential of waste, fraud, and abuse.¹¹

If the Commission does not align its eligibility criteria with the streamlined federal eligibility criteria, significant operational burdens will be placed on the CLA participating providers:

- Separate state and federal eligibility criteria would complicate Lifeline providers' consumer intake processes. Providers would need to re-train their Lifeline customer service representatives on the state versus federal discounts versus combined state/federal discounts. Providers would also need to be prepared to answer a likely large volume of questions from affected consumers, because (1) consumers are likely to be confused about which discount they are eligible for when they first sign up for Lifeline benefits; and (2) consumers who are already participating in the program are also likely to be confused if their Lifeline discount changes following their annual recertifications as a result of the eligibility criterion they used to demonstrate continued eligibility for Lifeline.
- Providers who apply the California and federal Lifeline benefits as a discount on services would need to implement the new state-only and federal-only discounts for each state in their billing systems, in addition to the combined state/federal discounts that are in place today. Because providers may have many different rate plans separate state and federal discounts would require some providers to implement many changes in their billing systems.
- Separate California and federal customer bases and discounts would also complicate providers' Lifeline line count submissions for purposes of state and federal Lifeline discount reimbursements, as providers would need to maintain one set of line counts for federal

⁹ *Id.* at ¶¶ 193-195.

¹⁰ *Id.* at ¶¶ 170-172.

¹¹ *Id.* at ¶¶ 183-187.

reimbursement purposes¹² and another to obtain California reimbursements.

Finally, the California administrator would also benefit from the alignment of eligibility criteria, so that it can easily continue to qualify consumers for participation in both the federal and California LifeLine programs.

For all of these reasons, the Commission should modify its Lifeline rules to mirror exactly the streamlined federal Lifeline eligibility criteria, to be effective on the same date as the streamlined federal eligibility criteria.

2. **Should California LifeLine maintain its own eligibility criteria that differ from the federal Lifeline program? If yes, should California conduct two sets of income-based or program-based qualifications, one for federal Lifeline and a separate process for California LifeLine? Describe the justifications.**

Response: No. See prior response.

3. **What should happen with the consumers who previously qualified under the eligibility criteria that the federal Lifeline program just eliminated? When should their eligibility end for federal Lifeline discounts? Describe the justification.**

Response: Pursuant to the *Lifeline Modernization Order*, consumers receiving a federal Lifeline benefit based on one of the eliminated programs (as of December 2, 2016) should continue to receive that Lifeline benefit until their next recertification date. Beginning January 1, 2017, federal Lifeline annual rolling recertification will be conducted based on the anniversary of the consumer's "service initiation date". Consumers enrolled before January 2017 will be subject to the annual rolling recertification process on July 1, 2017. A customer who enrolled under a state-specific criterion will be allowed to recertify under one of the streamlined federal

¹² In the long term, it is envisioned that Lifeline providers will no longer be required to submit line counts for federal Lifeline customers to obtain reimbursements. *See id.* at ¶ 143. But providers would still need to maintain records regarding federal Lifeline consumers served for financial reconciliation and audit purposes, and to know which customers to claim in the federal database.

criteria without submitting additional documentation. However, if the customer is recertified on the basis of a state-specific criterion, the CLA will need to inform the provider that the customer failed to recertify for the federal program, so that the provider can remove that customer from its 497 reimbursement requests.

- 4. Should consumers who are eligible for California LifeLine, but not federal Lifeline under the FCC’s Order, be allowed to pay for the equivalent federal support and receive the same service or package they receive now as California LifeLine and federal Lifeline participants? Legally, may the Program cover the cost of discounted telephone services for those consumers who are no longer eligible for federal Lifeline, but are eligible under the California standards, and if so, should the Program cover such costs? Describe the justifications.**

Response: The better approach to minimize consumer confusion and maintain efficient management of the Lifeline program would be for the Commission to mirror the streamlined federal eligibility criteria going forward. If the Commission does not mirror the streamlined federal criteria going forward, there is no legal prohibition to extra state support to make up the lost federal support. While AT&T does not advocate for this approach, and urges the Commission to mirror the FCC’s criteria as explained above, the California program should identify those customers who are enrolled under state-specific criteria and make up lost federal support if it fails to mirror FCC criteria. In no event should any provider be required to self-fund the amount of the federal support for consumers who only qualify for the California discount.

- 5. Should the California LifeLine Administrator continue to perform the enrollment process until the transition to the National Verifier? Describe the justification.**

Response: Yes, the current Administrator should continue to perform the enrollment process. If the CLA no longer performs the enrollment process prior to the establishment of a National Verifier (“NV”), the CLA and providers would have to manage a transition process that includes moving the California customer base to NLAD (while separating out and not

transitioning any state-only Lifeline customers if eligibility criteria are not aligned) and providers would have set up all new interim processes to manage Lifeline eligibility and recertification for California. This would be costly, time-consuming, and ultimately wasteful given the impending implementation of a National Verifier.

6. How should the National Verifier interact with the California LifeLine Administrator after the National Verifier is in place in California? Since the National Verifier is not yet in place, should decisions about this issue be deferred to a Phase III in the California LifeLine proceeding once the National Verifier process is known and operational in other states? Describe the justification.

Response: The FCC’s *Lifeline Modernization Order* makes clear that when the National Verifier becomes operational in a state, it will be the “central point of verification” so that “Lifeline providers can avoid the patchwork of systems currently required to enroll subscribers in various states.”¹³ All of the details around how the National Verifier will function and which sources it will draw from in determining eligibility have yet to be determined. However, the FCC has directed USAC to consider opportunities to coordinate and partner with states in making its eligibility determinations.¹⁴ As such, it is difficult to know how the CLA’s role will evolve until the state and USAC have an opportunity to discuss possible partnerships or working relationships to support the National Verifier in accomplishing its goals in connection with the federal Lifeline program. That conversation does not need to be delayed until the National Verifier has launched in other states.

If the Commission aligns the eligibility criteria for its state Lifeline program, as AT&T strongly encourages it to do, California will be able to leverage the eligibility decisions coming out of the National Verifier, whether or not the CLA is assisting the National Verifier with

¹³ *Id.* at ¶ 130.

¹⁴ *Id.* at ¶ 142.

eligibility determinations. When a Lifeline provider receives a positive eligibility determination from the National Verifier, it would know that those customers could also be enrolled in the California LifeLine program, and no additional checks would be necessary.

If the Commission makes the decision to maintain a separate set of criteria, it will lose the synergies that would otherwise exist with the federal program, and it would either need to maintain the CLA solely for purposes of determining eligibility for the state program for customers who are not approved for the federal program by the National Verifier, or it would put that burden on Lifeline service providers. Neither of those options serve the best interests of California consumers, as they lead to complexity and confusion and increased expense and administration. A provider would have to rely on the National Verifier, and not the California LifeLine

Administrator, for determining whether to enroll a customer in the federal Lifeline program - but a decision would have to be made as to how and when to give customers not eligible for the federal program a chance to be included in California's program.

7. **How will the California LifeLine Administrator's role change with the implementation of the National Verifier in California? Should the California LifeLine Administrator continue to exist once a National Verifier is in place? Since the National Verifier is not yet in place, should decisions about this issue be deferred to a Phase III in the California LifeLine proceeding once the National Verifier process is known and operational in other states? Describe the justifications.**

Response: See above response.

8. **Currently, investor-owned utilities enroll California's low-income households into the California Alternate Rates for Energy program for their receipt of discounted electric and/or gas bills. For discounted phone bills, the Commission transferred the enrollment responsibilities from the service providers to an independent, third-party administrator. Should there be one entity enrolling California's households into these consumer assistance programs, e.g., California Alternate Rates for Energy, California LifeLine, Family Electric Rate Assistance Program, Energy Savings Assistance**

Program, and Deaf and Disabled Telecommunications Program, administered by the Commission? If so, describe how this enrolling entity might be created and administered, its legal foundation, and in what time-frame.

Response: AT&T has no response at this time.

9. Should California LifeLine maintain or change the method for determining the start of the California LifeLine discounts? If it should be changed, describe how, and provide the justification.

Response: Yes. In no event should any Lifeline provider be required to apply a Lifeline discount before the date a consumer is found to be eligible for Lifeline. There should not be retroactive discounts back to the date in which the applicant requested Lifeline. Discounts should commence based on the date the consumer were approved for Lifeline. If the Commission requires a California LifeLine discount before the consumer has been found to be eligible, the provider would be required to identify, maintain, and submit separate Lifeline subscriber line counts for the state and federal programs, and would need to track separate Lifeline service anniversary dates for the California and federal Lifeline programs for purposes of compliance with other rules (such as the port freeze and rolling recertification requirements, if they become effective). The result is the imposition of unnecessary burdens upon participating providers that complicate providers' Lifeline administrative and operational requirements, which would tend to discourage voluntary provider participation in Lifeline, ultimately limiting the choices in Lifeline service available to eligible consumers.

10. Should the California LifeLine Administrator or the California LifeLine providers load the participants' information into the new National Verifier? What factors should the Commission consider in transferring participant information?

Response: If this request is asking if the CLA should transfer over information on existing Lifeline subscribers to the NV as of the time the NV takes over and starts maintaining a database of all Lifeline customers nationwide, that is appropriate. The FCC has required

California to provide “existing subscriber information to USAC by December 1, 2016, and ongoing thereafter, including any information regarding services that Lifeline subscribers subscribe to”¹⁵ Factors to consider as part of that data transfer include internet security, encryption, firewalls, and the interface between CLA and NV.

11. How will the federal Lifeline program’s supported services impact the California LifeLine discounts?

Response: AT&T has no response at this time.

12. Should the Commission redefine minimum communications needs for California’s low-income households? If yes, describe the justification and redefined minimum needs.

Response: A service must meet the following minimum voice or BIAS service standards established by the FCC to be eligible for federal Lifeline support:

Lifeline Internet Access and Voice Minimum Standards		
Minimum standards to be eligible for federal Lifeline support (§ 54.408)		
Fixed Internet access service	Mobile Internet access service	Mobile voice
<p>Speed: 10 MB down/1 MB up</p> <p>If 10/1 not commercially available in an area, may offer highest speed available, but must be at least 4 MB down/1 MB up)</p> <p>Usage: 150 GB/month</p> <p>Changes to minimum standards TBD annually 2017 – thereafter</p>	<p>Speed: 3G speed</p> <p>Usage:</p> <p>500 MB/month usage beginning 12/1/16</p> <p>1 GB/month usage beginning 12/1/17</p> <p>2GB/month beginning 12/1/18</p> <p>Changes to minimum standards TBD annually 2019 – thereafter</p>	<p>12/1/16: 500 voice MOUs/month</p> <p>12/1/17: 750 voice MOUs/month</p> <p>12/1/18-11/30-21: 1,000 voice MOUs/month</p> <p>(No fixed voice minimum standards)</p>

AT&T supports uniform national Lifeline rules in order to encourage voluntary participation in Lifeline by streamlining requirements applicable to Lifeline service. To this end:

- The Commission should redefine voice service to match the FCC’s definition. The Commission should not impose minimum mobile voice usage standards that are greater than the FCC’s requirements.

¹⁵ *Id.* at ¶ 164 and n.425.

Further, the Commission should not impose other requirements upon voice service that are not required under the FCC's Lifeline rules.

- The Commission lacks jurisdictional authority to impose minimum standards for BIAS. BIAS is an interstate service (irrespective of whether, following pending judicial appeals, it is classified as a telecommunications service or information service).¹⁶ The Commission lacks jurisdictional authority over internet protocol ("IP") services.¹⁷

Ensuring uniformity between federal and California requirements will ensure that Lifeline providers who operate in multiple state jurisdictions can offer the same voice service(s) that will be eligible for Lifeline discounts across those states. Providers would not need to develop California-specific Lifeline offers, thereby avoiding the need to create and support in their billing systems state-specific rates, and to ensure that customer service representatives and other support staff are trained regarding each state-specific offer. Unlike California, neither the federal Lifeline program nor the vast majority of states reimburse participating providers for the administrative costs they incur to participate in Lifeline. So streamlining Lifeline requirements will reduce providers' administrative costs and burdens, thereby encouraging voluntary provider participation in Lifeline, this will ultimately help to maximize the choices in Lifeline services available to participating consumers.

13. What will the likely impact be of any changes in minimum communications needs as defined by California LifeLine on the Program's support and funding?

Response: AT&T has no response at this time.

¹⁶ "Today we reaffirm the [Federal Communications] Commission's longstanding conclusion that broadband Internet access service is jurisdictionally interstate for regulatory purposes." *In the Matter of Protecting and Promoting the Open Internet*, GN Docket No. 14-28, *Report and Order on Remand, Declaratory Ruling, and Order*, 30 FCC Rcd. 5601, 62 Communications Reg. (P&F) 1, FCC 15-24 (rel. Mar.12, 2015), ¶ 431. The D.C. Circuit has upheld this order; several parties have filed a petition for *en banc* review.

¹⁷ See Cal. Pub. Util. Code § 710.

14. **What are “bundled plans” in the FCC’s context? Does this mean, simply: a rate plan that includes both voice telephony service and BIAS, or could it include a plan that shares one bucket (for example, a plan that offers 500 units where one unit may equal either one voice minute or one MB)? If it is a rate plan based on units, what benchmarks should the Commission use to make such a plan qualify for California LifeLine support?**

Response: AT&T’s understanding of the FCC’s use of the term “bundled plans” is the ordinary concept of a single rate plan that includes multiple services, such as a plan that provides both voice and data services at specified quantities and speeds. For the bundled offerings, one or both of the individual services needs to meet the relevant service standard to be eligible for reimbursement. In the Public Notice recently released by the FCC’s Wireline Competition Bureau, it clarifies that ‘substitution’ or ‘decremented’ bundled offerings do not fulfill the requirements of the Lifeline minimum service standards if they restrict a customer’s access to the supported service for which the provider is claiming Lifeline reimbursement below the minimum service standard applicable for that supported service as a result of the customer’s usage of some other service included in the bundled offering. Service offerings that, for example, ‘decrement the broadband offering using data, voice minutes or text messages’ do not meet the minimum service standard for broadband because they do not provide a guaranteed level of voice minutes or data, and they condition subscribers’ access to the Lifeline-supported service on the subscriber’s use of other services provided in the bundle.¹⁸

We do not recommend that the Commission extend Lifeline support to plans that cannot be measured by traditional minutes of use and wireless voice standards.

15. **Does the FCC’s Order require California LifeLine providers to review all of their plans with the Commission to designate whether the plan is for a participant using telephone service or broadband**

¹⁸ Before the Federal Communications Commission, Public Notice, “Wireline Competition Bureau Provides Guidance Regarding Designation as a Lifeline Broadband Provider and Lifeline Broadband Minimum Service Standards,” WC Docket Nos. 11-42, 09-197, ¶ 15 (rel. Sept. 30, 2016).

internet access service, and if so, when should such a review be done? Since support for voice telephony services phases out under the federal Lifeline program, is it necessary for California LifeLine to distinguish between service offerings meeting the federal Lifeline program's minimum service standards, and to adjust support? If yes, when and how should California LifeLine implement these distinctions?

Response: There is not a requirement in the federal order that a Lifeline providers needs to provide the FCC or USAC with their implementation plan.

This Commission should adjust support in the sense that if the California voice Lifeline program continues after the FCC phases out its support for voice service, then the Commission should revise its rate restrictions so that carriers are not self-funding an additional \$9.25 for California LifeLine voice customers, or they should increase the CA reimbursement for state Lifeline voice services by \$9.25. Ideally, this Commission would make these adjustments as the federal support for voice service ramps down from \$9.25 to \$7.25 to \$5.25, before it is phased out entirely.

- 16. The Commission tentatively concludes that California LifeLine can maintain its renewal process until the launch of the National Verifier in California. Is it legally permissible for the California LifeLine to allow the Universal Service Administrative Company (USAC) to conduct California LifeLine renewals, as well as federal Lifeline renewals, in the meantime? Should the Commission continue to conduct the California LifeLine and/or federal Lifeline renewal process or defer to USAC to conduct the renewals for the federal program until the launch of the National Verifier in California?**

Response: AT&T has no response at this time.

- 17. If California LifeLine mirrored the federal Lifeline program's renewal process, describe the needed changes.**

Response: On January 1, 2017, Federal Lifeline annual rolling recertification will be based on the anniversary of the consumer's "service initiation date." Consumers enrolled before January 2017 will start the annual rolling recertification process on July 1, 2017. Consumers

will be given 60 days to complete recertification prior to their service initiation date. A consumer must be de-enrolled with five days for no response or failure to respond, and if a consumer self-identifies himself or herself as ineligible, he/she must be de-enrolled with two days.

The Commission will need to adhere to the new federal timelines for de-enrollment, which would also affect the timing of when the CLA informs providers of a participant's de-enrollment and effective date.

The *Lifeline Modernization Order* also raises the possibility that the FCC Wireline Competition Bureau may propose standardized Lifeline forms for certification, re-certification, and the one-per-household worksheet. If standardized federal forms are available, their use will be mandatory. If that materializes, additional work will be required by the Commission to have all the forms updated that are currently being used in the California LifeLine Program.

18. The federal Lifeline program is still developing details regarding who may be impacted by the federal Lifeline program's revised eligibility criteria. What potential changes may be warranted to California LifeLine eligibility criteria during the renewal process beginning in 2017?

Response: The Commission should mirror the federal program eligibility criteria as soon as possible to keep programs in sync to avoid unnecessary customer confusion and significant administrative challenges and costs for the CLA, Commission staff, service providers, and California LifeLine fund.

Prior to the eligibility criteria changes for the renewal process starting in July 1, 2017, the CLA should provide notice to the participants affected by the change ineligible programs and income level prior to their anniversary date that the Program's eligibility rules are changing upon their renewal and in order to continue their Lifeline eligibility they would have to participate in one of approved programs or have income below 135% of the Federal Poverty Guidelines.

19. Should the California LifeLine Program maintain or change how and why participants are removed from the program?

Response: Under existing federal Lifeline rules, each consumer must be re-certified each calendar year; all non-responding consumers must be de-enrolled within five business days after the expiration of their time to respond to the recertification efforts.

Beginning July 1, 2017, re-certifications must be conducted on a rolling 12-month, consumer-specific basis: Providers must re-certify a consumer's eligibility every 12 months based on the consumer's "service initiation date" (*i.e.*, the date the consumer's eligibility was confirmed), except in states where state agency or Lifeline Administrator manages re-certifications. AT&T recommends that the Commission modify its current rolling 12-month recertification process and incorporate by reference the FCC's recertification time frames.

In addition, the new federal rules specify that a consumer has 60 days – a longer period than the 30-day period currently required for the federal program – to respond to the re-certification request; and the provider must de-enroll consumers who did not respond within 5 business days after the 60-day response period. If the Commission wishes to identify re-certification response and de-enrollment time frames in their rules, AT&T recommends that the Commission incorporate the corresponding federal rule by reference. Once the NV is implemented in a state, the NV can manage all consumer re-certifications.¹⁹

If the Commission's requirements differ from the FCC's, the CLA and providers would be required to implement processes for the California LifeLine program that would be burdensome for the both the CLA and the provider and confusing for consumers.

¹⁹ See 47 C.F.R. §§ 54.410(f), 54.405(e)(4); effective January 1, 2017 or 60 days after OMB approval, whichever is later. As discussed later in this document, the National Verifier will be phased-in over several years.

Consider, for example, if the Commission has a rule mirroring the existing FCC 30-day re-certification response period and does not modify its rules to mirror the FCC's new 60-day period. A consumer who did not respond within 30 days would then need to be de-enrolled from the California program; but could not be de-enrolled from the federal program until after the federal 60-day response period.

- 20. Should the California LifeLine Program educate consumers about changes in federal Lifeline? If so, how? What is the responsibility of the federal Lifeline program to educate consumers about federal program rules and changes? Should California's ratepayers bear the cost of this consumer education? What other issues should the Commission address regarding California LifeLine in light of the FCC's Order changing the federal Lifeline program?**

Response: Consumer education is a good role for the Commission to coordinate. Lifeline is a government benefit and administrative functions of this nature are properly handled by the government agencies that administer it. The Commission can play a helpful role educating consumers about the eligibility criteria changes (and if the Commission does not mirror the federal eligibility criteria, the impact this will have on consumers' discounts); the port freeze requirements, should they go into effect, the modified de-enrollment requirements, and when implemented in California, the National Verifier.

The Commission should also oversee provider notification of consumers through bill inserts and provide reimbursement for such administrative expenses.

IV. AT&T'S COMMENTS REGARDING 60-DAY DISCOUNT TRANSFER FREEZE FOR CALIFORNIA LIFELINE WIRELESS TELEPHONE SERVICE

- 1. Should a 60-day discount transfer freeze for federal Lifeline discounted voice telephony services be adopted by the Commission for its current administration of the federal Lifeline program in California to conform to USAC's current administrative practice, and the federal Lifeline program's pending codification of the federal Lifeline discount transfer freezes? Explain why.**

Response: The FCC established new port freeze requirements, limiting the frequency with which consumers may move from one Lifeline provider to another and for the provider to continue to receive Lifeline reimbursements. Subject to certain exceptions, new 47 C.F.R. § 54.411 specifies that an ETC may not obtain federal Lifeline reimbursement for service provided to a consumer who used Lifeline benefit to enroll in Lifeline:

- For voice service with another ETC within the previous 60 days; or
- For BIAS with another ETC within the previous 12 months.

The currently scheduled effective date of the port freeze rules is December 2, 2016. However, USTelecom has requested that the FCC reconsider the port freeze requirement, or alternatively, delay its implementation until the National Eligibility Verifier is established. In light of USTelecom's petition for reconsideration, it is unclear whether the new port freeze requirements will become effective; and if they do become effective, when.

Accordingly, AT&T recommends:

- If the federal port freeze requirements become effective, AT&T recommends that the Commission mirror the federal port freeze requirements by incorporating the federal rule by reference, or alternatively, mirroring the federal rule. AT&T recommends that any such California rule become effective the same date the federal requirements become effective.
 - If the FCC's port freeze rules do not become effective, the Commission should adopt port freeze requirements that mirror the federal requirements to comply with SB2570.
2. **If the Commission adopted a 60-day discount transfer freeze for federal Lifeline discounted voice telephony services offered in California, when should it be implemented in California? Should California institute this policy prior to OMB approval of the federal Lifeline program's discount transfer freezes to conform to USAC's practice? Why or why not?**

Response: See Response to Number 1.

3. **Should the Commission also implement a 60-day discount transfer freeze for California LifeLine discounted telephone services? Explain why.**

Response: Yes, to the maximum extent possible, the Commission should align its eligibility criteria with the federal program, which includes initial eligibility – including whether a customer fails a port freeze requirement – and recertification.

4. **What are the implications for consumers, competition, and program administration of a 60-day discount transfer freeze for California LifeLine discounted telephone services?**

Response: *See* Response to Number 1.

5. **Would a 60-day discount transfer freeze for California LifeLine discounted telephone services deter fraud, waste, and abuse? Provide specific examples and data to justify your rationale?**

Response: AT&T has no response to this request at this time.

6. **Would a 60-day discount transfer freeze for California LifeLine discounted telephone services promote higher investment in high quality California LifeLine services and create benefits to consumers or program administration? Provide specific examples and data to support your contention?**

Response: AT&T has no response to this request at this time.

7. **Most California LifeLine wireless telephone service providers already offer unlimited minutes of voice, which decreases the incentive for California LifeLine participants to switch California LifeLine providers to get more minutes of voice. Rate plans differ in whether they include BIAS and/or text and how much of each they include, and whether they offer a free handset and what type of handset they offer. Would California LifeLine participants have the same incentive, i.e., to improve services received and to switch California LifeLine providers as exists in the federal Lifeline program? Would California LifeLine participants have other incentives to switch California LifeLine providers, e.g., get a higher BIAS data allocation, more text, or better handset? Why?**

Response: AT&T has no response to this request at this time.

8. **What would the likely program and administrative costs and burdens be of a 60-day discount benefit transfer freeze for California LifeLine discounted telephone services?**

Response: AT&T has no response to this request at this time.

9. **Should the support amounts from the federal government and the state work in tandem regarding the discount transfer freeze, or is there administrative or program justifications for having different discount transfer freeze durations or policies? If so, describe.**

Response: To the maximum extent possible, the Commission should align its eligibility criteria with the federal program, which includes initial eligibility – including whether a customer fails a port freeze requirement – and re-certification. Different transfer freeze durations or policies will create undue and unnecessary complications. The only reasonable way to manage two complicated programs is to ensure that rules are aligned so that the two customer bases are the same, and that the entire base is subject to the same rules with respect to both programs.

10. **If California implemented a 60-day discount transfer freeze for both federal and California LifeLine supported telephone services, what exceptions should apply to the discount transfer freeze?**

Response: The Commission should mirror the federal exceptions so there is no difference between the federal and state programs.

Certain exceptions to the transfer freeze apply: A consumer may transfer his/her Lifeline benefit to another ETC before completion of the 60-day or 12-month period if:

- The consumer moves;
- The ETC ceases operations, or otherwise fails to provide service;
- The ETC's late fees for non-payment for the supported service(s) are greater than or equal to the monthly end-user charge for service; or
- The ETC violated the FCC's rules during the benefit year and the consumer is impacted by the violation.

In these cases, the consumer is not required to re-verify eligibility until the end of the original 12-month period.

In addition, a consumer may move his/her Lifeline benefit at any time to a different eligible service offered by the same Lifeline provider, whether the service is BIAS, voice or a bundle, so long as the service is Lifeline eligible, if permitted by the terms and conditions of the service offering. But if a consumer switches from a Lifeline-supported BIAS to voice, the 12-month port freeze no longer applies; and in that case, the consumer's Lifeline benefit will be subject to a 60-day port freeze.

- 11. Should the Commission adopt the same exceptions as the federal Lifeline program for California LifeLine if California adopts a 60-day discount transfer freeze for California LifeLine discounted telephone services?**

Response: *See Response to Number 10.*

- 12. Should the Commission add a fifth exception: if the California LifeLine provider is found in violation of California LifeLine rules during the discount transfer freeze period, and the violation affects the California LifeLine participant, the discount transfer freeze would not apply? Why?**

Response: *See Response to Number 9.*

- 13. Should the Commission add an exception that California LifeLine participants may cancel their California LifeLine services within 14 days of California LifeLine activation if the California LifeLine participants have problems with the handset or service, and communicate the problem(s) to the California LifeLine provider in accordance with the Commission's Decision 14-01-036? If so, why? Would adding this type of exception be out of compliance with the federal Lifeline program's discount transfer freeze rules? How so?**

Response: The federal port freeze rules do not prevent a consumer from cancelling their service – only from going on to activate with another carrier within 60 days from their last Lifeline activation. Creating an additional exception just for the California LifeLine program would be difficult to administer. Also, under the current California rate structure, if the customer

was not eligible for federal Lifeline discounts, but was eligible for the California state Lifeline program, the second provider (who did not disappoint the customer) would then be self-funding the \$9.25 that it cannot draw from the federal program. That assumes either the Commission or the carrier can keep these separate customer bases separate.

- 14. Would the exception of the “current provider ceases operation or otherwise fails to provide service” cover situations where a participant is unable to effectively use the discounted service at the participant’s home, work, school or other important locations and constitute an effective failure to provide service? What would constitute “failure to provide service”? What would constitute ceasing operations?**

Response: AT&T has no response to this request at this time.

- 15. Should a 60-day discount transfer freeze for California LifeLine discounted telephone services apply only to wireless telephone services and/or to wireline telephone services? What is the rationale for your choice? Would limiting the 60-day discount transfer freeze to certain types of providers be out of compliance with the federal Lifeline program’s discount transfer freeze rules?**

Response: The federal port freeze rules do not distinguish between wireless and wireline voice. There is no justification for the rules to be different for California customers.

- 16. If a 60-day discount transfer freeze were implemented in California for federal Lifeline and/or California LifeLine discounted telephone services, how should federal Lifeline and/or California LifeLine providers inform potential and/or existing California LifeLine participants about the discount transfer freeze? Should federal Lifeline and/or California LifeLine providers be required to inform potential and/or existing California LifeLine participants orally about the 60-day discount benefit transfer freeze at the time when a consumer may be trying to sign-up for the provider’s retail service, unless the exceptions above apply? Should providers be required to distribute written information about the 60-day discount transfer freeze prepared by the Commission’s Communications Division and deliver that information to the potential and/or existing California LifeLine participants prior to signing-up for the provider’s retail service?**

Response: AT&T has no response to this request at this time.

- 17. If the Commission adopted a 60-day discount benefit transfer freeze for California LifeLine discounted telephone services, which date and activity(ies) would trigger the start of the discount transfer freeze? Should the trigger for the start of the 60-day discount transfer freeze be the date in which the California LifeLine discounts started as determined by the California LifeLine Administrator? Should it be the application date when a consumer expresses interest to be on California LifeLine? Should it be the decision date in which the California LifeLine Administrator notifies the consumer and/or the California LifeLine provider of its eligibility decision?**

Response: Footnote 972 of the *Lifeline Modernization Order* provides as follows: “For the purposes of the 60-day port freeze, the period will begin to run from the subscriber’s service initiation date.” This is the date the service provider enrolls the customer in Lifeline. Providers are required to follow this rule for the federal program (*see* paragraph 394 of *Lifeline Modernization Order*), and the Commission should follow the same rule for the California program. The only way to manage these two programs is to keep them in lockstep.

- 18. If the Commission adopted a 60-day discount transfer freeze for California LifeLine discounted telephone services upon which date and activity(ies) would trigger the end of the discount transfer freeze?**

Response: The 60-day freeze would automatically expire 60 days after the customer’s service initiation date, unless it expires sooner under one of the exceptions in 47 CFR § 54.411.

- 19. If the Commission adopted triggers for the start and end dates for the discount transfer freezes that did not match with the federal Lifeline program, would California be out of compliance with the federal Lifeline program’s discount transfer freeze rules?**

Response: Paragraph 394 of the *Lifeline Modernization Order* requires states that have opted out of NLAD to upgrade their systems to implement the federal discount transfer rule.

20. **With the FCC’s adopted requirement that “a provider shall not seek or receive reimbursement through the Lifeline program for service provided to a subscriber who has used the Lifeline benefit to enroll in a qualifying Lifeline-supported voice telephony service offering with another Lifeline provider within the previous 60 days,” would consumers actually be able to transfer their federal Lifeline benefits? Would consumers actually have to be without federal Lifeline discounted services for at least 60 days to be able to transfer their discounts absent triggering one of the allowed exceptions?**

Response: Consumers do not have to be without federal Lifeline discounted services for 60 days to transfer their federal benefit. They must have “enrolled” with the first provider at least 60 days before seeking to change providers. They can either maintain service with the first provider for at least 60 days, or they can drop service within those 60 days and wait out the rest of the 60-day period before applying with a new provider.

21. **Should California LifeLine adopt any additional restrictions? For example, should California adopt an enrollment request freeze, during which a consumer may not submit a request to participate in the California LifeLine?**

Response: The Commission should conform its rules to mirror the federal requirements.

V. AT&T’S COMMENTS ON BROADBAND INTERNET ACCESS REQUIREMENTS INCLUDING VOICE/BROADBAND BUNDLED SERVICES AND DISCOUNT TRANSFER PRICE FREEZE ISSUES

1. **Whether the Commission should impose a similar 12-month discount transfer freeze on BIAS that may be supported by California LifeLine, and what exceptions should be available to California LifeLine participants. In light of the 12-month discount transfer freeze for BIAS, should the Commission adopt a 12-month discount transfer freeze for CPUC-supported BIAS when offered as part of a bundle with California LifeLine discounted telephone services?**

Response: To the extent the Commission implements a state BIAS Lifeline program, provider participation must be voluntary and all rules should mirror the federal rules.

2. **If the Commission adopts a 60-day discount transfer freeze for California LifeLine discounted telephone services, should it adopt a parallel 60-day discount transfer freeze for California LifeLine BIAS if both are offered in a bundle? What would be the administrative implications if California LifeLine participants who had telephone service/BIAS bundles faced a 60-day discount transfer freeze for California LifeLine telephone service/BIAS bundles, but a 12-month discount transfer freeze for federal supported BIAS?**

Response: Assuming the federal port freeze rules go into effect, the applicable federal voice or broadband port freeze period should apply. If the bundle in question qualifies for federal Lifeline voice support but not federal Lifeline BIAS support, the voice port freeze period should apply. If the bundle qualifies for federal Lifeline BIAS support, the BIAS port freeze period should apply.

3. **If California LifeLine is offered in combination with federal Lifeline, will ETCs in California that offer BIAS through the federal program trigger a 12-month discount transfer freeze for federal Lifeline? Should the Commission require ETCs in California to offer an unbundled service offering, one which includes voice telephony services that would only be subject to a 60-day discount transfer freeze? Would a 12-month discount transfer freeze for bundles that include BIAS supported through federal Lifeline also trigger a 12-month discount transfer freeze for the entire bundle including all California LifeLine services such as telephone services?**

Response: The Commission should not impose any such stand-alone voice requirement.

4. **How should a 12-month discount transfer freeze work with the activation/ connection fee that allows a carrier serving eligible households that fee no more than two times per year between December 24, 2015 and December 24, 2016, and any future activation/connection fee. Should carriers be eligible for an activation/connection fee if an eligible household establishes service consistent with the 12-month discount transfer freeze? Should the service activation/connection discount be available only if the eligible household switches to a different carrier after 12 months? Is any activation/connection discount appropriate for renewals that do not involve a switch of carrier? Please recommend what rules should apply to the interaction of the service activation/connection discount and a 12-month transfer freeze.**

Response: AT&T has no response to this request at this time.

5. **Should California LifeLine require some BIAS to receive full California LifeLine support, and if so at what speeds and usage limits? Should BIAS remain optional for California LifeLine since it will be mandatory for federal Lifeline support by the end of 2016? Please discuss the legal authority of the Commission to order the inclusion of BIAS, and the administrative and policy issues raised by any proposal to mandate the inclusion of BIAS for California LifeLine support, whether full or partial?**

Response: While section 871.7(c) of the Public Utilities Code authorizes the Commission to provide California LifeLine support for BIAS, a jurisdictionally interstate service, Lifeline support for BIAS should be optional for California LifeLine, and provider participation must be voluntary. AT&T notes that because the FCC allows existing ETCs to opt into forbearance from having to offer Lifeline on BIAS (with an exception for CAF II areas), the federal program is not mandatory, but optional in most places.

VI. CONCLUSION

AT&T requests that the Commission revise the California LifeLine program as outlined above.

Dated this 11th day of October 2016 at San Francisco, California.

Respectfully submitted,

/s/

DAVID DISCHER

Executive Director – Senior Legal Counsel
AT&T Services, Inc.
430 Bush Street, Third Floor
San Francisco, CA 94108
Tel.: 415-268-5351
Fax: 415-543-0418
E-mail: david.discher@att.com

Attorney for AT&T